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File 80

CN 4943
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TELEGRAM

INDICATE
☐ COLLECT
☐ CHARGE TO

FROM	CLASSIFICATION
AMEMBASSY BUENOS AIRES	CONFIDENTIAL

12065
EO ~~11652~~ XGDS
TAGS:
SUBJECT

GDS 6/18/85 (HARRIS, F. ALLEN) OR-P
SHUM AR
(U) APPEALS COURT REJECTS TIMERMAN HABEAS CORPUS PETITION

ACTION

SECSTATE WASHDC PRIORITY

INFO:

USCINCSO QUARRY HTS CZ

AMB
DCM
POL 3
ECOM
POL/R
DAO
ICA
SY
CHRON
RF

C O N F I D E N T I A L BUENOS AIRES 4943

REF: BUENOS AIRES 3993, PARA 6

(C) SUMMARY: THE WEEKEND PRESS REPORTED THAT THE FEDERAL APPEALS COURT OF BUENOS AIRES REJECTED A HABEAS CORPUS PETITION FILED ON BEHALF OF FORMER "LA OPINION" EDITOR JACOBO TIMERMAN, WHO IS BEING HELD UNDER HOUSE ARREST AFTER TWO YEARS OF DETENTION. THERE WAS EARLIER SPECULATION THAT THE RECENT RETIREMENT OF ~~TWO~~ TWO LIBERAL JUDGES ON THE COURT OF APPEALS MADE THE DECISION LIKELY. THE CASE MAY NOW GO TO THE SUPREME COURT. ~~A(XXXXXXXXXXXXXXXXXXXXXX~~/ END SUMMARY.

1. (U) A HABEAS CORPUS APPEAL TO THE BUENOS AIRES FEDERAL APPEALS COURT WAS FILED BY MRS. TIMERMAN SOME MONTHS AGO SEEKING TO HAVE HER HUSBAND, JACOBO TIMERMAN, FREED PURSUANT TO A DECISION OF THE ARGENTINE SUPREME COURT WHICH FOUND MR. TIMERMAN'S DETENTION UNDER THE PODER EJECUTIVO NACIONAL IMPROPER, INASMUCH AS THE

DRAFTED BY	DRAFTING DATE	TEL. EXT.	CONTENTS AND CLASSIFICATION APPROVED BY
POL:FAHARRIS:SZ	6/18/79	278	POLCOUNS:WHHALLMAN

CLEARANCES

ADCM:JAMOTT

CONFIDENTIAL
CLASSIFICATION

50153-101

OPTI LR 153
(Formerly FS-413)
1975
Dept. of State

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FORMER EDITOR HAD BEEN INVESTIGATED BY A MILITARY COURT AND FOUND NOT TO HAVE ANY CONNECTIONS WITH SUBVERSION.

2. (U) ACCORDING TO PRESS ACCOUNTS, THE RECENT APPEALS COURT DECISION APPEARS NOT TO HAVE BEEN A LEGALISTIC DECISION, BUT ARGUED THAT MR. TIMERMAN'S CONTINUED IMPRISONMENT WAS JUSTIFIED ON PRINCIPLES OF MORALITY, SUITABILITY, EFFICACY AND RESPONSIBILITY. ACCORDING TO THE PRESS THE JUDGES SAID THAT THE ARGENTINE NATION HAD FACED FORCES ORGANIZED, EQUIPPED AND DIRECTED BY ELEMENTS WHICH RESPONDED TO ALIEN IDEOLOGIES AND WITH THE PROCLAIMED INTENTION OF PROVOKING CHAOS AND "FOREIGNIZED" DESPOTISM. THE RULING WENT ON TO SAY THAT THERE WAS COMPLACENCY ON THE PART OF THE STATE, ENTITIES AND PERSONS WHICH "COULD HARM HEALTHY PUBLIC OPINION, FACILITATING PROMOTING THE DISASSOCIATIVE ACTION OF SUBVERSION." TO FACE THIS SITUATION THE MILITARY GOVERNMENT REQUIRED, ACCORDING TO THE COURT, A "SYSTEM STRONGER THAN THAT WHICH HAD THEORETICALLY RULED UP TO THEN AND WAS OBVIOUSLY INSUFFICIENT..."

3. (C) COMMENT: THERE WAS SPECULATION IN JUDICIAL CIRCLES THAT THE RECENT RETIREMENT OF THE "TWO LIBERAL JUDGES" IN THE THREE MEMBER BUENOS AIRES FEDERAL APPEALS COURT PANEL PRESIDING COURT SIGNALED THAT THE DECISION OF THAT COURT WOULD BE UNFAVORABLE TO MR. TIMERMAN. ALTHOUGH THE

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EMBASSY HAS NOT AS YET RECEIVED A COPY OF THE DECISION, FROM
/THE NEWSPAPER ACCOUNTS MAKE IT APPEARS THAT THE COURT DID NOT CLEARLY ADDRESS THE UNDERLYING LEGAL ISSUE, WHICH IS WHETHER MR. TIMERMAN CAN BE HELD ON THE BASIS OF THE INSTITUTIONAL ACT ITSELF AND NOT UNDER THE NATIONAL EXECUTIVE POWER AUTHORITY GRANTED TO THE GOVERNMENT UNDER SPECIAL CIRCUMSTANCES DURING THE STATE OF SIEGE. THIS TYPE OF LEGAL DECISION WILL NOW BE FACED BY THE SUPREME COURT. END COMMENT.

CASTRO RM

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